

CITY COUNCIL REPORT



Meeting Date: *October 25, 2022*
 Charter Provision: *Provide for the orderly government and administration of the affairs of the city*
 Objective: *Enact Local Legislation*

ACTION

Vacation Rental Ordinance Amendments. Adopt Ordinance No. 4566 repealing and replacing Article IX of Chapter 18 of the Scottsdale Revised Code concerning vacation and short-term rentals.

BACKGROUND

As of Sept. 20, 2022, city staff have identified about 2,800 short-term rental properties advertising or recently listed properties for rent in Scottsdale. Identification of these properties was made through use of the city's contracted technology provider and other city systems. These are properties that are known to be advertising, and their locations are known. In addition, there are at least 1,500 additional live listings in Scottsdale where the address is unknown. These are typically condominium or townhome properties. city staff have asked Airbnb and VRBO for assistance in identifying these properties. This adds up to a total estimate of about 4,300 short-term rental properties currently operating in Scottsdale.

In 2021, the Short-term Rental Working Group of twelve Scottsdale residents, including two councilmembers, met six times over twelve weeks to develop nine recommendations, which were unanimously approved by the City Council. City staff have been implementing the recommendations and providing quarterly updates. The city's short-term rental response strategy is summarized as:

- Increase likelihood that impacts can be prevented and minimized
- Enforcement is timely when violations occur
- Residents are informed about how to address and resolve problems
- Ordinances reflect the authority granted under state law

In December 2021, the Scottsdale vacation rental and nuisance party ordinances were amended, with a promise to advocate for necessary changes to State law to return needed short-term rental oversight to the city of Scottsdale, and to continue to evaluate additional necessary public health and safety regulations and bring forward additional revisions.

In July 2022, Governor Ducey signed SB 1168 allowing local governments to require short-term rentals to obtain and maintain a local regulatory permit or license, which can only be denied for limited reasons, and suspended for limited reasons. Provisions relating to neighborhood notification, liability insurance, and sex offender background checks were also included. These changes provide tools for local governments to hold "bad actors" responsible for their actions.

ANALYSIS AND ASSESSMENT

Recent Staff Action

Ordinance No. 4566 was drafted by staff to reflect the authority granted to cities under state law. This draft was presented during a City Council Work Study Session on September 20, 2022. Public comment was submitted, and feedback was received from the City Council, and has continued to be received from the industry and residents. A redline version of changes since Sept. 20, 2022, is made available in Attachment 2.

Policy Implications

Ordinance No. 4566 amends the city's vacation rental ordinance to add new provisions based on the authority granted through SB 1168, as well as restating existing provisions, and adding new requirements that are necessary to protect the public health and safety.

Regulatory License Requirement – Effective January 8, 2023, all short-term rentals will have to have a license to operate in the city. SB 1168 allows cities to set a fee not to exceed the actual cost of issuing the license or \$250, whichever is less. City staff recommends setting the fee at \$250 as it is lower than the anticipated actual cost to the city to issue the permit. In estimating the cost, city staff considered the cost of additional licenses to the licensing system, the centralized database, city incurred credit card fees, digital equipment (such as computers, servers), and staffing cost to review and approve licenses within the 7-day period. These costs will be incurred annually, as a result city staff recommends that each license be renewed annually.

The proposed ordinance institutes the SB 1168 requirements regarding what is required for the license application, license issuance, and the limited conditions under which a license could be denied. The proposed ordinance includes a section for license revocation being if grounds for denial exist for a license that already was issued. In addition, the proposed ordinance includes the SB 1168 criteria for the limited conditions when a license can be suspended. There are certain conditions where certain three verified violations within a twelve (12) month period (does not include violations based on an aesthetic, solid waste disposal or vehicle parking violation that are not also a serious threat to public health and safety) could trigger a suspension and other more serious conditions where a single incident would suffice. Whenever an application is denied or a license is revoked or suspended, there will be a hearing process, either administratively in most cases, or through the courts for certain serious incidents involving any attempted or completed felony act, arising from the occupancy or use of a vacation rental or short-term rental, that results in a death, or actual or attempted serious physical injury.

Other Requirements - Non-residential usage continues to be prohibited, and the requirement that emergency contacts respond at the request of public safety staff remains in place as well. There are new requirements for short-term rentals to obtain liability insurance, to conduct sex offender background checks, and a neighbor notification process. SB 1168 authorizes each of these items.

Public Health and Safety Requirements – State law allows cities to regulate short-term rentals for the purposes of protecting the public's health and safety if the city demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety. These additional

requirements are based on this authority, and a city staff team has met to review complaints, review state law and other ordinances, and make a recommendation on some provisions necessary for the primary purpose of protecting the public's health and safety.

Included are requirements relating to trash and garbage. Trash issues are one of the most common complaints involving vacation and short-term rentals, and Solid Waste staff have spent significant time addressing these. These requirements are applicable to all single-family properties via Chapter 24 of the Scottsdale Revised Code and therefore do not require authorization under A.R.S. Section 9-500.39. Inclusion in the proposed ordinance in addition to the existing requirements in Chapter 24 of the Scottsdale Revised Code will make it easier for Code Enforcement staff to enforce these requirements.

In addition, there are several fire and life safety requirements. These are necessary because renters of vacation rentals and short-term rentals are not familiar with these homes as they would be in their own long-term rental or residence. Requiring working smoke alarms and a map showing exit/egress helps create a safer environment for short-term renters. Members of the City of Scottsdale Fire Department have stated that based on their training and experience these measures will improve the safety of vacation rentals and short-term rentals.

There are also public health reasons to ensure that properties are cleaned between bookings, and there is regular pest control treatment. These are necessary to prevent the spread of disease and ensure a healthy experience in Scottsdale. The Maricopa County Environmental Health Code Chapter 10, Section 2 requires certain cleanliness and pest standards for transient dwellings for public health reasons. The same public health reasons applicable to transient dwellings can be found for vacation rentals and short-term rentals.

Also, if the rental includes a swimming pool, spa or hot tub that is accessible to the renters, they must comply with the barrier requirements required with any new construction. This was particular concern as there was a death from a child at a Scottsdale short-term rental with a pool. These are common requirements in new homes and at hotels, but there are many rentals that predate these requirements and have not been updated, and as renters are not familiar with the properties as they would be if this were their own home, including this requirement is also recommended as well. The City's Building Official was consulted on this proposed requirement and based on his training and experience believes that these barrier requirements will reduce the risks of drownings at these properties significantly.

Finally for life safety purposes, as briefly discussed above there is a requirement that they provide a map of the floor plan for emergency access, this is to familiarize rentals with the exits and location of safety equipment. In addition, a notice requirement has been added for display in all rentals to make renters aware of the rules governing short-term rentals, and information about the property including the license number and the local contact information. That posting is required to be in bold font, 14-point size or higher, and the city will provide a model posting to simplify compliance.

Significant Issues to be Addressed

Since the Work Study Session, staff has continued to review and update the ordinance to ensure effective implementation after adoption and based on feedback received from public comment. The key changes are highlighted below and included in the current draft of Ordinance No. 4566.

- 18-151(a). The date upon which short-term rental owners must be licensed was extended by 15 days to Jan. 8, 2023. This was based on industry feedback and allows additional time for applications to be received and processed by staff after the holidays.
- 18-151(d). The language making a second violation of operating a rental without a license a class one misdemeanor was removed based on industry feedback. Ongoing violations will be handled through the courts as civil violations.
- 18-152(c). A paragraph was added to clarify that fees and penalties related to licensing, when unpaid, shall be deemed a debt to the city. This will aid in collection efforts.
- 18-154(a)3. Language was added to require the owner to certify the owner's designee is authorized to act upon the owner's behalf. This was added based on feedback that SB 1168 states that the owner or owner's designee's contact information can be required on the application. Because SB 1168 states that the city can require an owner to obtain and maintain a license, the city needs both the owner's name and contact information and needs a certification that the designee can act on the owner's behalf.
- 18-154(a)8. The requirement to provide evidence of liability insurance has been moved to 18-173 as it was pointed out that this was not something that was required to be including in the license application in SB 1168. Industry representatives also requested the removal of the proof of lawful presence subsection, but it was not removed as it is required for all licenses issued by the city under State law.
- 18-155(a)6. Based on industry feedback it was clarified that this subsection applies only to that specific license application.
- 18-157. Based on industry feedback that the prior draft would necessitate the denial of all subsequent applications from the same owner for one year, this has been modified to give discretion by the hearing officer to reduce the 1-year period following denial based on certain conditions. This was inserted to mitigate concerns that something like a failed payment of the license could prevent the renting of a property for an entire year.
- 18-171(b). Staff included language regarding special events that was included in SB 1168.
- 18-173. This section was written to require proof of insurance following licensure, rather than during the application process.
- 18-175(c). Language relating to records of smoke alarm inspections and maintenance activities was deleted, as the other subsections do not include record-keeping provisions.
- 18-175(d). Language relating to telephones was removed, as an onsite telephone is not required in this ordinance.

- 18-175(e). It has been clarified that the property must be cleaned between “stays” rather than “bookings.” Language referencing the Maricopa County Environmental Health Code was included to give guidance regarding minimum cleaning standards.
- 18-175(g). Language was inserted to give all properties six months to come into compliance with pool, spa and hot tub barrier requirements.
- 18-175(h). The license number has been added to the required safety posting, creating a common reference to the property, and was added at the request of the police department.
- 18-176. To address industry concerns, the sex offender background checks section has been updated to clarify that this requirement only relates to the booking guest, consistent with SB 1168, and to require the check no later than 24-hours prior to the stay, rather than within 24 hours of booking. It has also been clarified that use of the U.S. Department of Justice’s online national sex offender public website will satisfy this requirement. Also added is language in (c) about booking on behalf of a sex offender.

Community Involvement

Prior to the Sept. 20, 2022, work study, staff sent out the ordinance draft to the 2021 Short-Term Rental Working Group members, the list of Interested Parties, as well as the list of Industry representatives who registered regarding SB 1168. The draft ordinance was also posted on the city’s Short-Term Rental webpage, go to ScottsdaleAZ.gov and search “Short-Term Rentals” with an address to send comments.

Following the Sept. 20, 2022, work study, staff met with representatives of the Scottsdale Area Association of Realtors, Airbnb, Vrbo, Arizonans for Responsible Tourism, members of the 2021 Short-term Rental Working Group, other short-term rental owners and hosts who requested to meet with staff, as well as reviewing all public comments received, and following up via email as needed. All requests were reviewed, and changes have been made as noted where applicable.

RESOURCE IMPACTS

Available funding

Developing a licensing program was not anticipated in the FY 2022/23 budget, however, revenues are anticipated between \$500,000 and \$1 million depending on the volume of applications received and processed (2,000 – 4,000 short-term rental applications). Likewise, expenditures related to this program are anticipated to range between \$580,000 and \$1,172,000 to implement the program. The cost to administer the program is anticipated to be more costly than the revenues received, but as noted previously the maximum fee is set by SB 1168. The net difference will be absorbed in existing budgets, and contingency will be requested if needed to cover deficits within the divisions.

Staffing, Workload Impact

Staff anticipates that twelve staff will be involved in some way in implementing the licensing process. This will include some legal work, and more technology work, but will primarily be borne by two tax and license specialist and one code inspector, under the review of the tax and license manager, and the business services director. It is anticipated that one or two temporary or contract

workers will be used in addition to the current staffing levels in Business Services and Code Enforcement.

Maintenance Requirements

To implement Ordinance No. 4566, staff will take necessary actions, including:

- preparing the business licensing system to accept the fully online applications from short-term rental owners,
- preparing a written notice to send out to all properties to inform them of the need to apply for a license from the city by Jan. 8, 2023,
- preparing a webform regarding the neighborhood notification and liability insurance attestations,
- finalizing a resident’s guide to living next to a short-term rental based on the new requirements,
- preparing the posted notice template, and
- identifying the process for sharing the contact information out of the licensing system with the police department and code enforcement unit.

Future Budget Implications

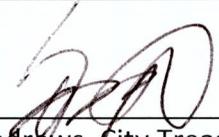
Based on the experience with implementing Ordinance No. 4566, staff will account for the anticipated revenues and associated expenditures in the proposed FY 2023/24 budget.

STAFF CONTACTS (S)

Brent Stockwell, Assistant City Manager, BStockwell@ScottsdaleAZ.Gov;

Luis Santaella, Deputy City Attorney, LSantaella@ScottsdaleAZ.gov

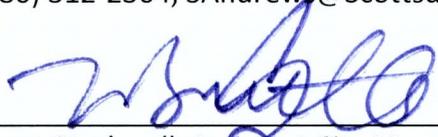
APPROVED BY



Sonia Andrews, City Treasurer
(480) 312-2364, SAndrews@ScottsdaleAZ.gov

10/11/2022

Date



Brent Stockwell, Assistant City Manager
(480) 312-7288, BStockwell@ScottsdaleAZ.Gov

10/11/2022

Date

ATTACHMENTS

1. Ordinance No. 4566
2. Redline of Changes Since the Version Presented at the Sept. 20, 2022, Work Study Session

ORDINANCE NO. 4566

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE,
REPEALING AND REPLACING ARTICLE IX OF CHAPTER 18 OF THE
SCOTTSDALE REVISED CODE CONCERNING VACATION RENTALS AND
SHORT-TERM RENTALS

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Chapter 18, Article IX is hereby repealed.

Section 2. Chapter 18, Article I, Section 18-2 of the Scottsdale Revised Code is amended and renumbered to conform by adding two new definitions as follows with new language shown in shaded format:

Owner's designee means a person authorized to act on behalf of the owner of a vacation rental or short-term rental.

Verified violation means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in A.R.S. Sections 9-500.39(B) or 9-500.39(K) that has been finally adjudicated.

Section 3. Chapter 18, Article IX of the Scottsdale Revised Code is hereby added as follows with new language shown in shaded format:

ARTICLE IX. – VACATION RENTALS AND SHORT-TERM RENTALS.

DIVISION 1. – LICENSING.

Sec. 18-150. – Purpose.

This article is necessary to protect the health, safety and welfare of the public.

Sec. 18-151. - Vacation rental license required; invalid license; penalties.

(a) Effective January 8, 2023, no person shall operate a vacation rental or short-term rental in the city without first having obtained a current vacation rental license from the city and paying the applicable fees. A separate current vacation rental license is required for each house or dwelling unit where a vacation rental or short-term rental is operated.

(b) No person shall operate a vacation rental or short-term rental in the city with an expired, suspended or revoked vacation rental license.

(c) Representations or advertisements including online listings that reference the property, house or dwelling unit location within the city is prima facie evidence that a vacation rental or short-term rental is operating in the city.

(d) A violation of this section is a civil offense and shall be punished by a fine of not less than one thousand dollars (\$1,000.00) per violation. The court shall not suspend any part of any fine required by this section.

Sec. 18-152. - License fees.

(a) Every application, including any renewal application, for a vacation rental license under this article shall be accompanied by a non-refundable two hundred fifty-dollar (\$250.00) license fee and penalties incurred pursuant to this section.

(b) If the applicant failed to apply for a vacation rental license upon receiving written notice from the city of the requirement to do so, the applicant shall pay an additional one-thousand-dollar (\$1,000.00) penalty for every thirty (30) day period the applicant failed to apply. Any penalty shall be non-refundable. For purposes of this section, written notice includes, but is not limited to, a notice sent by electronic means, United States mail or hand delivered to the physical location of the vacation rental or short-term rental or the address on file with the county assessor for the property. Written notice is deemed served on the date it is sent by electronic means, hand delivered or, if mailed, on the date it is deposited in the United States mail.

(c) The amount of any license fee and any penalty imposed by the provisions of this article shall be deemed a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent license fee and penalties.

Sec. 18-153. - Term of license; transfer.

(a) A vacation rental license issued under this article shall be valid for a period of one (1) year from the date of issuance unless suspended or revoked.

(b) No license shall be transferable either as to location or as to person.

Sec. 18-154. – Application for license.

(a) An applicant for a vacation rental license including for a renewal application shall file an application on a form prescribed by the city manager or designee and contain the following information:

(1) The physical address of the house or dwelling unit to be used as a vacation rental or short-term rental.

(2) The name, address, email and telephone number of the owner of the vacation rental or short-term rental. If the owner is a fictitious person, the name, address, email and phone number of the owner's statutory agent.

(3) The name, address, email and telephone number of the owner's designee, if any. The owner shall certify that the owner's designee is authorized to act upon the owner's behalf.

(4) The name, address, email and twenty-four (24) hour telephone number of the individual who will serve as the emergency point of contact for the vacation rental or short-term rental. An individual pursuant to this subsection must be a real person and cannot be a fictitious person.

(5) Agreement by the owner and each designee to comply with all applicable laws, regulations, and ordinances.

(6) The owner and each owner's designee shall attest that they are not registered sex offenders, have not been convicted of any felony act that resulted in death or serious physical injury, and have not been convicted of any felony use of a deadly weapon within the past five (5) years.

(7) Proof of a valid transaction privilege tax license.

(8) If the applicant is an individual, proof of lawful presence in the United States in accordance with A.R.S. §§ 1-502 and 41-1080 unless exempted by A.R.S. § 41-1080(B).

Sec. 18-155. – License issuance; denial.

(a) The city shall issue a vacation rental license within seven (7) business days after receipt of a complete application unless grounds for denial exist as follows:

(1) Failure to provide the information required by this article;

(2) Failure to pay the required license fee(s) including any penalties;

(3) At the time of application, the owner has a revoked or suspended license for the same vacation rental or short-term rental;

(4) The applicant has provided false information;

(5) The owner or designee of the owner: (i) is a registered sex offender; (ii) has been convicted of any felony act that resulted in death or serious physical injury; (iii) or has been convicted of any felony use of a deadly weapon within five (5) years of submitting the application; and

(6) Any grounds for revocation or suspension of a vacation rental license exist for the specific license application.

(b) The city manager or designee shall give notice of any denial of an application, and the right of appeal from the denial, as provided for in this article.

Sec. 18-156. – License revocation.

The city manager or designee shall initiate revocation proceedings if any grounds for denial exist for a vacation rental license that already has been issued.

Sec. 18-157. – Reapplication after denial or revocation.

No person who has had a vacation rental license denied or revoked pursuant to this article may apply for another vacation rental license for one (1) year at that same property after the decision affecting the applicant's license has become final. At the time of sustaining a denial, the hearing officer may reduce in whole or in part the one (1) year period described above in this section, if the denial was based on a good faith failure to provide complete information pursuant to section 18-155(a)(1) or failure to pay the required license fee(s) and any penalties provided that the applicant has paid all required fees and penalties by the time of the denial hearing.

Sec. 18-158. - License suspension; term of suspension.

(a) The city manager or designee shall initiate suspension proceedings against a vacation rental license for any of the following:

(1) Three verified violations within a twelve (12) month period, not including any such violation based on an aesthetic, solid waste disposal or vehicle parking violation that is not also a serious threat to public health and safety.

(2) One verified violation that results in or constitutes any of the following:

(a) A felony offense committed at or in the vicinity of a vacation rental or short-term rental by the owner of the vacation rental or short-term rental or by the owner's designee;

(b) A serious physical injury or wrongful death at or related to a vacation rental or short-term rental resulting from the knowing, intentional or reckless conduct of the owner of the vacation rental or short-term rental or the owner's designee;

(c) An owner of the vacation rental or short-term rental or the owner's designee knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, sexual offenses, or prostitution, or operating or maintaining a sober living home; or

(d) An owner of the vacation rental or short-term rental or the owner's designee knowingly or intentionally allowing the use of a vacation rental or short-term rental for a special event that would otherwise require a permit or license pursuant to this code or a state law or rule or for a retail, restaurant, banquet space or other similar use.

(b) The city manager or designee shall give notice of any suspension, and the right of appeal from the suspension, as provided for in this article.

(c) Any final suspension shall be for a period of one (1) year except that a hearing officer may reduce the suspension period to a period of six (6) months upon a finding that the owner of the vacation rental or short-term rental has taken substantial and significant steps to prevent the reoccurrence of the actions that led to the suspension.

Sec. 18-159. – Judicial relief for certain grounds of suspension.

(a) Notwithstanding section 18-158, any attempted or completed felony act, arising from the occupancy or use of a vacation rental or short-term rental, that results in a death, or actual or attempted serious physical injury, shall be grounds for judicial relief in the form of a suspension of the property's use as a vacation rental or short-term rental for a period that shall not exceed twelve (12) months.

(b) The city attorney may initiate proceedings in the city court or other court of competent jurisdiction to enforce this section.

Sec. 18-160. - Information updates.

All applicants and persons holding licenses issued pursuant to this article shall give written notice to the city manager or designee of any material changes in information submitted in connection with an application or application for renewal of a license. Any information required for an application pursuant to section 18-154 is deemed to be material for purposes of this section. This information shall be provided to the city manager or designee by the licensee or the effected person, as applicable, within ten (10) business days of any such change.

Sec. 18-161. - Appeals.

(a) Any person aggrieved by any decision with respect to the denial of or a refusal to issue a vacation rental license, the revocation of a vacation rental license, the suspension of a vacation rental license or a verified violation penalty imposed pursuant to section 18-177, shall be entitled to the review and appeal procedures provided in chapter 16, article I.

(b) This section is not applicable for judicial actions brought pursuant to section 18-159 or penalties including fines imposed by a court.

Sec. 18-162. – City use of license information.

Unless otherwise provided for by law, the city may use any information obtained from licensing applications including contact information pursuant to this article for any lawful purpose including, but not limited to, communicating or providing information regarding compliance with laws, public health and safety regulations, general city updates and reminders to keep required information updated with the city.

Secs. 18-163 -169. – Reserved.

DIVISION 2. – PROHIBITIONS AND OPERATIONAL REQUIREMENTS.

Sec. 18-170. – Compliance with laws.

(a) A vacation rental or short-term rental must at all times comply with all federal, state, and local laws, rules and regulations including but not limited to public health, safety, sanitation, solid waste, hazardous waste, tax privilege licensing, residential rental property recording, traffic control, pollution control, noise, property maintenance, and nuisance abatement.

(b) No person including an owner or operator shall operate a vacation rental or short-term rental in violation of this section.

Sec. 18-171. – Non-residential usage by vacation rentals or short-term rentals prohibited.

(a) No vacation rental or short-term rental may be used for any non-residential use or purpose including but not limited to any of the following:

1. Any commercial, industrial, manufacturing, or other non-residential purpose; or
2. Operating a retail business, restaurant, event center, banquet center or similar use; or
3. Housing sex offenders; or

4. Operating or maintaining a structured sober living home; or

5. Selling liquor, controlled substances or pornography; or

6. Operating any adult-oriented business including nude and topless dancing.

(b) The owner of a vacation rental or short-term rental or the owner's designee shall not knowingly or intentionally allow the use of a vacation rental or short-term rental for a special event that would otherwise require a permit or license pursuant to this code or a state law or rule.

(c) No person including, but not limited to, an owner, owner's designee, tenant, guest, business, vendor or operator shall operate a vacation rental or short-term rental in violation of this section.

(d) Representations or advertisements including online listings that advertise one of the prohibited activities pursuant to this section that reference a vacation rental or short-term rental property, house or dwelling unit location within the city is prima facie evidence that a vacation rental or short-term rental is operating in violation of this section.

Sec. 18-172. – Failure to respond to an emergency; penalties.

(a) In the event of an emergency, any person designated as an emergency contact pursuant to section 18-154 upon the request of public safety personnel shall respond in-person within one (1) hour to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact.

(b) For the purpose of this section "in the event of an emergency" means any time police, fire or other public safety personnel respond to a vacation rental or short-term rental for a call for service including responding to a nuisance party or unlawful gathering.

(c) It shall be a civil offense for any person designated as an emergency contact upon request by public safety personnel pursuant to subsection (a) of this section to either fail to respond to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact or fail to arrive within one (1) hour to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact. Failure to respond shall be punished by a minimum fine of five hundred dollars (\$500.00) and failure to arrive within one (1) hour shall be punished by a minimum fine of two hundred fifty dollars (\$250.00).

(d) It shall be a civil offense for the owner of a vacation rental or short-term rental to intentionally, knowingly or recklessly have the owner's emergency contact fail to comply with the requirements of subsection (a). A violation of this subsection shall be punished by a minimum fine of five hundred dollars (\$500.00). Evidence such as failure of an owner to keep contact information current may be considered when determining whether the owner acted intentionally, knowingly or recklessly.

Sec. 18-173. – Insurance required; failure to maintain insurance; penalty.

(a) Unless provided by an online lodging market place that provides primary liability insurance coverage of at least five hundred thousand dollars (\$500,000) for the vacation

rental or short-term rental, every owner of a vacation rental or short-term rental shall maintain liability insurance to cover each vacation rental or short-term rental in the aggregate of a least five hundred thousand dollars (\$500,000).

(b) Within thirty (30) days of obtaining a vacation rental license issued pursuant to this article, the owner or owner's designee shall provide evidence to the city of liability insurance to cover the vacation rental or short-term rental in the aggregate of at least five hundred thousand dollars (\$500,000) or evidence that each vacation rental or short-term rental transaction will be provided through an online lodging market place that provides equal or greater primary liability insurance coverage for the vacation rental or short-term rental.

(c) The owner or owner's designee of vacation rental or short-term rental shall provide proof of compliance with subsection a above upon demand by the city.

(d) It shall be unlawful for the owner or operator of a vacation rental or short-term rental to fail to comply the requirements of this section.

(e) A violation of this section is a civil offense and shall be punished by a minimum fine of five hundred dollars (\$500.00). Upon a showing that the owner or operator has obtained the required insurance, the court may reduce the fine pursuant to this section to one hundred dollars (\$100.00).

Sec. 18-174. – Advertising license number required; penalty.

(a) It shall be unlawful for the owner, operator or owner's designee of a vacation rental or short-term rental to fail to display or list a city vacation rental license number on each advertisement for a vacation rental or short-term rental located within the city.

(b) A violation of this section is a civil offense and shall be punished by a minimum fine of five hundred dollars (\$500.00). Upon a showing that the owner, operator or owner's designee has come into compliance with this section, the court may reduce the fine pursuant to this section to one hundred dollars (\$100.00).

Sec. 18-175. - Additional health and public safety regulations.

(a) The health and public safety regulations in this section are for the primary purpose of protecting the health and safety of the public as vacation rentals and short-term rentals create unique public health and safety issues.

(b) No person owning or operating a vacation rental or short-term rental shall:

- (1) leave trash or garbage within public view, except in proper collection containers for the purpose of collection in accordance with the residential collection schedule outlined in section 24-17.
- (2) collection containers shall not be placed for collection before 6:00 p.m. on the day preceding the date of collection, and after the containers are emptied, they shall be removed from the curblin on the day of collection.

(c) Any person owning or operating a vacation rental or short-term rental shall ensure that every vacation rental or short-term rental has working smoke alarms, which may require the

installation and maintenance of several detection units and maintained annually as required under National Fire Protection Association (NFPA) 72.

(d) The owner or owner's designee of a vacation rental or short-term rental shall provide and prominently display a map of the floor plan of the property showing the following information: safe routes of egress in the event of a fire or other emergency; the location of fire detection and suppression equipment; and any additional information relevant to such emergency preparedness measures. Such maps shall include the full property address, emergency information (911), and owner/emergency contact information.

(e) The owner or owner's designee of a vacation rental or short-term rental shall have the property cleaned between stays. It shall be a defense to any prosecution of this subsection that the owner or owner's designee followed the cleaning standards outlined in the Maricopa County Environmental Health Code, Chapter 10, Section 2 relating to Transient Dwelling Establishments.

(f) The owner or owner's designee of a vacation rental or short-term rental shall ensure that the property receives regular (at least bi-monthly) pest control treatments to keep the interior of all buildings and structures and exterior area of the premises free from infestation of insects, rodents, and other noxious pests where such infestation threatens the health, safety, or welfare of a person or persons.

(g) The owner of a vacation rental or short-term rental that includes a swimming pool, spa or hot tub that is accessible to the renters, shall comply with the barrier requirements outlined in Scottsdale Revised Code § 31-68, AG105, Barrier Requirements. Owners of vacation rentals or short-term rentals shall have six months from the effective date of this article to come into compliance with this subsection.

(h) The following notice must be completed in 14-point or larger bold font, on a laminated or otherwise similarly shielded paper, and prominently displayed on the inside of the front door and the primary door to the backyard or a conspicuous location near each such door. The notice shall include information regarding the location of any fire or life safety equipment such as fire extinguishers, and the City of Scottsdale nuisance waste disposal regulations.

NOTICE

USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENALTIES:

1. Any commercial, industrial, manufacturing, or other non-residential purpose; or
2. Operating a retail business, restaurant, event center, banquet center or similar use; or
3. Housing sex offenders; or
4. Operating or maintaining a structured sober living home; or
5. Selling liquor, controlled substances or pornography; or
6. Operating any adult-oriented business including nude and topless dancing; or
7. Any uses prohibited under A.R.S. § 9-500.39, or federal, state or local law; or
8. Any use that constitutes a substantial disturbance of the quiet enjoyment, and peace, health, safety or general welfare of private or public property through a nuisance party or unruly gathering, including, but not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, litter, spirituous liquor served to, or in the possession of, or consumed by any minor, or where illegal drugs are in the possession of, or consumed by, any person.

9. The occupancy of this premises is limited to a single family of one to six adults and, if any, their related dependent children as defined in Appendix B, Sec. 3.100 of the Scottsdale Zoning Ordinance.

10. None of the following may occur where such acts may reasonably be viewed by the public whether at ground level or from a reasonable vantage point of a nearby property, such as a deck or balcony:

- a. Urination or defecation;
- b. Nudity; or
- c. Sexual acts.

UNLESS THE CITY EXPRESSLY PERMITS SUCH A USE IN WRITING, USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENTALTIES:

Use for any nonresidential use, including:

1. For a special event that would otherwise require a permit or license pursuant to city ordinance, or a state law or rule; or

2. Operating a retail business, restaurant, event center, banquet space, or similar use.

Your local contact person's name is _____ and can be reached by phone 24 hours a day, seven days a week, at ____-____-____.

City of Scottsdale Vacation Rental License # _____.

Sec. 18-176. – Sex offender background checks.

(a) No later than twenty-four (24) hours before every stay the owner or owner's designee shall perform a background check on the person booking a vacation rental or short-term rental through the online national sex offender public website operated by the United States Department of Justice to ensure that there are no sex offenders at the vacation rental or short-term rental.

(b) An owner or owner's designee shall retain a printout (either in hard copy or electronic form) of the background check on the person booking the property for twelve (12) months after the booking date. Records of each background check shall be made available for inspection by the city upon demand during normal business hours.

(c) It shall be a civil offense for owners or owner's designees to fail to comply with the requirements of subsections a and b above and shall be punished by a mandatory minimum fine of one thousand dollars (\$1,000.00). The court shall not suspend any part of any fine required by this section.

(d) It shall be a civil offense for a person to intentionally or knowingly book a vacation rental or short-term rental on behalf of a sex offender when the person booking the reservation will not be staying at the vacation rental or short-term rental. A violation of this subsection shall be punished by a mandatory minimum fine of one thousand dollars (\$1,000.00). The court shall not suspend any part of any fine required by this section.

(e) The requirements of subsections a and b above are satisfied and/or waived if the online lodging marketplace on which the vacation rental or short-term rental is advertised performs the background check.

(f) For the purposes of this section, booking means the act of securing a reservation for the use of a vacation rental or short-term rental.

Sec. 18-177. – Verified violation penalties.

(a) In addition to any other penalty pursuant to this code, and notwithstanding any other law, the following civil penalties shall be imposed by the city upon the owner of a vacation rental or short-term rental related to the same vacation rental or short-term rental property within the same twelve-month (12) period:

(1) Up to \$500.00 or up to an amount equal to one night's rent for the vacation rental or short-term rental as advertised, whichever is greater, for a first verified violation.

(2) Up to \$1,000.00 or up to an amount equal to two nights' rent for the vacation rental or short-term rental as advertised, whichever is greater, for the second verified violation.

(3) Up to \$3,500.00 or up to an amount equal to three nights' rent for the vacation rental or short-term rental as advertised, whichever is greater, for a third verified violation and any subsequent violation.

(b) If multiple violations arise out of the same response to an incident at a vacation rental or short-term rental, those violations are considered one violation for the purpose of assessing the civil penalties provided in this section.

(c) Unless an appeal is filed in a timely manner pursuant to section 18-161, a civil penalty assessed pursuant to this section shall be due within thirty (30) days of the initial notice sent to the owner by the city. For purposes of this section, written notice includes, but is not limited to, a notice sent by electronic means, United States mail or hand delivered.

Secs. 18-178 -18-190. – Reserved.

DIVISION 3. – NEIGHBOR NOTIFICATION.

Sec. 18-191. - Neighbor Notification.

(a) Prior to offering a vacation rental or short-term rental for rent for the first time, the owner or owner's designee is required to notify all single-family residential properties adjacent to, directly and diagonally across the street from the property, or in a multi-family residential building, to all units on the same building floor. After providing such notification, the owner or owner's designee shall attest compliance on a form prescribed by the city manager or designee and contain the following information:

(1) The vacation rental license number required by this article;

(2) The address of each property notified;

(3) How the notification was provided; and

(4) The name and contact information of the person attesting to compliance.

(b) The notification required by subsection (a) above is also required anytime the contact information for the vacation rental or short-term rental changes. Notification pursuant to this subsection shall occur within fifteen (15) business days.

(c) The notice required by this section shall be in writing and include the following information: the vacation rental license number issued pursuant to this article, the physical address of the vacation rental or short-term rental, and the name, address, and twenty-four (24) hour telephone number of the emergency point of contact. For purposes of this section, written notice includes notice sent by electronic means, United States mail or hand delivered.

(d) Vacation rentals or short-term rentals that are lawfully operating prior to the effective date of this section must comply with this section within thirty (30) days of obtaining a vacation rental license required by this article.

(e) It shall be unlawful to operate a vacation rental or short-term rental without complying with the notification requirements in this section.

(f) A violation of this section is a civil offense and shall be punished by a minimum fine of five hundred dollars (\$500.00). Upon a showing that the owner or owner's designee has come into compliance with this section, the court may reduce the fine pursuant to this section to one hundred dollars (\$100.00).

(g) For purposes of this section, adjacent shall mean the condition of being near to or close to but not necessarily having a common dividing line, i.e., two (2) properties which are separated only by a street or alley shall be considered as adjacent to one another.

Secs. 18-192 -18-195. – Reserved.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ___ day of _____ 2022.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

Ben Lane, City Clerk
APPROVED AS TO FORM:

David D. Ortega, Mayor

Sherry R. Scott, City Attorney
By: Luis E. Santaella, Deputy City Attorney